

United States District Court
Eastern District of Michigan

United States of America

ORDER OF DETENTION PENDING TRIAL

v.

Cushmeer Muhammad /

Case Number: 09-30323

Defendant

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I – Findings of Fact

- ✓ (1) I find that:
 - ✓ there is probable cause to believe that the defendant has committed an offense
 - ✓ for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841 or 846;
 - ✓ under 18 U.S.C. § 924(c).
- ✓ (2) I further find that the defendant has not rebutted the presumption established by finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

✓ I find that the government has established by a preponderance of the evidence that there is a serious risk that the defendant will not appear.

✓ I find that the government has established by clear and convincing evidence that there is a serious risk that the defendant will endanger the safety of another person or the community.

Part II – Written Statement of Reasons for Detention

- ✓ I find that the credible testimony and information submitted at the hearing established the following factors under 18 U.S.C. § 3142(g):
- ✓ (a) nature of the offense - Criminal Complaint - 1. Felon in Possession of a Firearm, 2. Possession of Firearm in the furtherance of Drug Trafficking Offense, 3. Possession with Intent to Distribute Cocaine Base.
 - ✓ (b) weight of the evidence - The evidence is strong, as it is based upon eye witness testimony and the seized drugs and firearm.
 - ✓ (c) history and characteristics of the defendant -
 - ✓ 1) physical and mental condition - Good health history; admits to marijuana use.
 - ✓ 2) employment, financial, family ties - Has job and community contacts; no assets.
 - ✓ 3) criminal history and record of appearance - At least two felony drug convictions and three misdemeanor convictions, two of which involved obstructing police.
 - ☐ (d) probation, parole or bond at time of the alleged offense -
 - ✓ (e) danger to another person or community - This 25 year old, twice convicted felon was found to be in possession of marijuana, crack cocaine and a loaded firearm. He fled from, and then physically resisted the arresting officer. He has a lengthy criminal history for a man his age, and has twice violated probation restrictions. He faces lengthy terms of imprisonment upon conviction, and thus has a strong motivation to abscond. He has a history of violating court ordered restrictions and he forcibly resisted arrest. Pretrial Services recommends detention on both risk of flight and dangerousness grounds. This defendant failed to rebut the presumption in favor of detention. Independent of the presumption, I view him as a flight risk and a danger to the community.

Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: July 29, 2009

s/Donald A. Scheer*Signature of Judge*Donald A. Scheer, United States Magistrate Judge*Name and Title of Judge*